THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

This opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

96-0105

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PAUL E. HOLLIS
and MICHAEL G. KIAPOKAS

Appeal No. 96-0105
Application 08/078,532[1]

ON BRIEF

Before COHEN, ABRAMS, and STAAB, *Administrative Patent Judges.*

ABRAMS, *Administrative Patent Judge.*

DECISION ON APPEAL

This is an appeal from the decision of the examiner finally rejecting claims 1 through 3, 5, 6, 8 through 13, 15, 16 and 18

[1] **Application for patent filed June 17, 1993.**

through 20. Claim 21 has been allowed, and claims 7 and 17 have been indicated as containing allowable subject matter.

The appellants' invention is directed to a fixture for handling an article such as an electrical connector while accessories are being installed thereon. The subject matter before us on appeal is illustrated by reference to claim 1, which reads as follows:

1. A fixture for handling an article, comprising:

a body defining a track which has a length extending between upstream and downstream ends, the track being configured for confining the article to sliding movement along the length, the track being open along at least a portion of the length so as to provide access for performing an operation on the article;

a check means disposed relatively upstream along the track for permitting the article to pass along the track in a downstream direction and for preventing the article to pass the check means in an upstream direction; and,

a stop means disposed downstream from the check means for fixing the article with respect to the track so that the operation may be performed, the stop means being operable to permit the article to pass in the downstream direction after the operation has been performed;

wherein at least one of the check means and the stop means comprises a finger member pivotable between a first position extending into the track wherein the article is prevented from passing in the upstream direction, and a second position withdrawn from the track, and further comprising a spring member biasing the finger member to the first position, the finger member being pivotable to the second position against the biasing of the spring member upon application of a downstream force to permit the article to pass in the downstream direction.

THE REFERENCE

The sole reference relied upon by the examiner to support the final rejection is:

Kamioka *et al.* (Kamioka)	4,898,268	Feb. 6, 1990

THE REJECTIONS

Claims 1 through 3, 5, 6, 8, 11 through 13, 15, 16 and 18 stand rejected under 35 USC §102(b) as being anticipated by Kamioka.

Claims 9, 10, 19 and 20 stand rejected under 35 USC §103 as being unpatentable over Kamioka.

The rejections are explained in the Examiner's Answer.

The opposing viewpoints of the appellants have been set forth in the Brief.

OPINION

The first rejection set out by the examiner is that the subject matter recited in the majority of the claims, including independent claims 1 and 11, is anticipated by the showing of Kamioka. Our guidance in this matter is that anticipation is established only when a single prior art reference discloses, either expressly or under the principles of inherency, each and every element of the claimed invention. See *In re Paulsen*, 30

F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994) and *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990).

Claim 11 requires a body defining a track extending between upstream and downstream ends, and configured for confining an article to sliding movement along its length. The claim also requires a check means disposed upstream along the track

> for permitting the article to pass along the track in a downstream direction and for preventing the article to pass the check means in an upstream direction

and a stop means disposed downstream from the check means

> for fixing the article with respect to the track so that the operation may be performed, the stop means being operable to permit the article to pass in the downstream direction after the operation has been performed.

The final requirement of the claim is that at least one of the check means and the stop means

> comprises a finger member pivotable between a first position extending into the track wherein the article is prevented from passing in the upstream direction, and a second position withdrawn from the track, and further comprising a spring member biasing the finger member to the first position, the finger member being pivotable to the second position against the biasing of the spring member upon application of a downstream force to permit the article to pass in the downstream direction.

Kamioka discloses a pair of members 4 and 5 defining a track having an upstream end (to the right in Figure 1) and a downstream end. Track element 4a is fixed laterally, while track element 5a is spring loaded inwardly. While specific description

is sketchy on this point, it would appear that a circuit board article could be inserted into the track from the side by moving the spring-loaded track element laterally, or it could be inserted at the upstream end of the track and moved toward the downstream end. In this regard, we note the references in the patent to the "flowing" direction of the article, although this term is not defined.

Movement of the article along the track in Kamioka at the downstream end is prohibited by pin 14a, which is not pivotable, and which would have to be manually retracted if the article were to move while confined to the track, a situation that appears not to be contemplated in the patent. As described in columns 5 and 6, track elements 4a and 5a are movable downwardly in order to place the article confined thereby in position to be worked upon, and pin 14a is equipped with a mechanism that causes it to follow this movement. However, there is no description of moving pin 14a out of the way to allow continued movement of the article downstream along the track when in the upper or the lower position. An article normally could not be inserted into the track at the end at which pin 14a is located, for the pin would block its movement toward the other end of the track.

The device also is equipped with a pivotable finger 20, which is moveable into the space between the track elements "for positioning the other end face of the printed circuit board P in

the flowing direction" (column 4, lines 55 and 56). However, in normal operation finger 20 contacts the article only when the article is moved downward in the track, and in that position it holds the article against movement along the track during the time when the article is worked upon. Finger 20 does not extend into the plane of the track when elements 4a and 5a are in the upper position, which is the only position in which "flowing" movement of the article along the track could appear to take place. In this regard, we note that when the track is in its lowered position, the article rests upon pins 2 which would, in the absence of explanation to the contrary, preclude movement of the article along the track. See column 4, line 55 through column 5, line 22.

Claim 1 requires that the pivotable finger member be moveable between a first position extending into the track "wherein the article is prevented from passing in the upstream direction, and a second position withdrawn from the track." As we explained above, Kamioka's finger 20 does not extend into the track when the track is in the upper, or "flowing" position, and thus does not in its normal mode of operation meet this claim condition. Whether it could even be caused to assume this position by manual activation is speculative, and therefore it is our view that such is not inherently a function of the device. The only time at which finger 20 extends into the track is when

the track is in its lowered position. However, the application of downstream force at this juncture will not result in movement of the finger to the second, or withdrawn, position. This is because such force will simply cause finger 20 to press against the article, which is held against movement by pin 14a. Thus, such pressure against finger 20 will not cause it to move into the withdrawn position, as required by the claim.

Therefore, we agree with the appellants that the terms of the claim are not met by finger 20.

An additional limitation required by the claim and not disclosed by Kamioka is that the check means disposed upstream must **prevent** the article from passing in the upstream direction. Even considering Kamioka in its most favorable light, finger 20 cannot accomplish this, for it is merely held by a spring against movement in the upstream direction. In our view, the bias of spring 25 could be overcome by application of appropriate force in the upstream direction, and therefore finger 20 cannot prevent the upstream movement of the article.

For the reasons set forth above, we will not sustain the Section 102 rejection of independent claim 1 and dependent claims 2, 3, 5, 6 and 8.

Independent claim 11 contains the same limitations that we found were not present in the reference with regard to claim 1. Therefore, for the same reasons, we will not sustain the Section

102 rejection of independent claim 11 and dependent claims 12, 13, 15, 16 and 18.

Claims 9, 10, 19 and 20 stand rejected as being unpatentable over Kamioka, the examiner's position being that it would have been obvious to make the gib members removable, and that the manner in which elements were attached was a matter of design choice. Be that as it may, the deficiencies in the showing of Kamioka which we expressed above in discussing the Section 102 rejection of claims 1 and 11 are not alleviated by considering the reference in the context of a Section 103 rejection. We note here that the examiner has not applied Kamioka in a different manner regarding the independent claims from which claims 9, 10, 19 and 20 depend, even though this rejection is under 35 USC §103.

The rejection of claims 9, 10, 19 and 20 is not sustained.

The decision of the examiner is reversed.

REVERSED

IRWIN CHARLES COHEN)
Administrative Patent Judge)
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NEAL E. ABRAMS) BOARD OF PATENT
Administrative Patent Judge) APPEALS AND
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